

**BOARD OF APPEALS CASE NO. 4827**

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**BEFORE THE**

**APPLICANT: George A. Butcher, Jr.**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct a deck,  
shed and 6 foot high fence within the  
front yard setback; 707 Lanark Court,  
Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 6/3/98 & 6/10/98**

**HEARING DATE: July 20, 1998**

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**Record: 6/5/98 & 6/12/98**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, George Butcher, Jr. is requesting a variance pursuant to Section 267-26(C)(4) of the Harford County Code to construct a deck (45 feet proposed) and a shed (3 feet proposed) in the required 60 foot front yard setback. An additional variance is requested pursuant to Section 267-24(B)(1) of the Harford County Code to construct a fence higher than 4 feet (6 feet proposed) in an R2/COS District.

The subject property is located at 707 Lanark Court, Bel Air, Maryland 21015 and is more particularly identified on Tax Map 49, Grid 1F, Parcel 260. The property consists of 0.187 acres, is located in the Fountain Glen subdivision and is presently zoned R2/COS. The parcel is entirely within the Third Election District.

Mr. George Butcher, Jr. Appeared before the Hearing Examiner and testified that he was the Applicant and the owner of the subject property. Mr. Butcher said that his home backs up to Maryland Route 543. His home is only three lots from a signalized intersection and traffic often backs up beyond his property line. The noise, odors and trash associated with this traffic have afforded little privacy in the rear yard of his home. Additionally he is concerned for the safety of his small children due to the amount of traffic and what the witness described as excessive speeds. He proposes to construct a deck on the rear of his house, a six foot high stockade fence and place a storage shed in the rear corner of the lot (this would be concealed from view by the proposed fence). Mr. Butcher's next door neighbor already received Board of Appeals approval for a six foot high stockade fence which has been constructed. The Applicant produced photos of his property and his neighbor's and indicated that his proposed fence would be identical to that existing next door.

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The Applicant testified that his property is unique because of its location along Rte 543 and the lack of a buffer space as provided along other arterial roads. He did not feel that his proposed structures would result in any detrimental impact to his neighboring properties. The witness indicated that he has obtained approval from his homeowner's association for the deck, shed and fence.

The Department of Planning and Zoning investigated the request of the Applicant and set forth its findings in the Staff Report dated June 15, 1998. The Department stated that the subject lot is a double frontage lot facing Lanark Court and backing on to Route 543 (Fountain Green Road). Fountain Green Road is a heavily traveled minor arterial road requiring a 60 foot front yard setback on the subject property. The existing house was built between the setback lines leaving no additional space for accessory structures. The Department points out that recent developments have left a 10 foot buffer/open space along existing roads to eliminate the need for two front yard setbacks on similar properties. Further, if such a strip had been left in this case, there would be no need for the requested variance for the deck and shed. The Department went on to say that a six foot fence would have no impact on sight distance or otherwise impact traffic.

There were no persons who appeared in opposition to the Applicant's request.

### **CONCLUSION:**

The Harford County Code provides as follows:

#### **Section 267-26(C)(4)**

"No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages as specified in Section 267-23(C), Exceptions and Modifications to minimum yard requirements."

#### **Section 267-24(B)(1)**

"Front yards. For single-family detached units, walls and fences shall not exceed four (4) feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent and coordinated pattern throughout the project, fences and walls may be constructed to a maximum of six (6) feet above ground elevation."

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The Harford County Code, pursuant to Section 267-11 allows area variances provided the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.

The Hearing Examiner concludes that the subject parcel is unique in that its location backing to Route 543 present difficult restrictions on accessory structure use. Additionally, the proximity to Route 543 prevents the Applicant and his family from using their rear yard with any privacy or safety. The Hearing Examiner finds that the proposed structures and fence height will have no material adverse impact on neighboring properties and will not impair the purposes of the Code. Further, the proposed fence is consistent with one already existing on the adjoining property. Because of the fence, the location of the shed will be obstructed from view and will have no adverse impact.

The Hearing Examiner, therefore, recommends approval of the Applicant's request subject to the condition that the Applicant obtain all necessary permits and inspections.

Date JULY 28, 1998

William F. Casey  
Zoning Hearing Examiner